

# U.S. Sentencing Commission Special Post-Booker Coding Project



## Information for All Cases

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Cases Sentenced Subsequent to *U.S. v Booker*  
(Data Extraction as of August 3, 2005)

Prepared: August 17, 2005



U.S. SENTENCING COMMISSION  
SPECIAL POST-BOOKER CODING PROJECT  
DATA EXTRACTION DATE: AUGUST 3, 2005

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**NATIONAL  
COMPARISON OF SENTENCE IMPOSED AND  
POSITION RELATIVE TO THE GUIDELINE RANGE**

Cases Sentenced Subsequent to *US v. Booker* with Data Available to USSC on August 3, 2005

	N	%
<b>TOTAL<sup>1</sup></b>	<b>31,332</b>	<b>100.0</b>
<b>WITHIN GUIDELINE RANGE</b>	<b>19,334</b>	<b>61.7</b>
<b>DEPARTURE ABOVE GUIDELINE RANGE</b>	<b>93</b>	<b>0.3</b>
Upward Departure from the Guideline Range <sup>2</sup>	60	0.2
Upward Departure with Booker/18 USC §3553 <sup>3</sup>	33	0.1
<b>OTHERWISE ABOVE THE GUIDELINE RANGE</b>	<b>350</b>	<b>1.1</b>
Above the Range with Booker/18 USC §3553 <sup>4</sup>	196	0.6
All Remaining Cases Above the Guideline Range <sup>5</sup>	154	0.5
<b>GOVERNMENT SPONSORED BELOW RANGE</b>	<b>7,441</b>	<b>23.7</b>
§5K1.1 Substantial Assistance Departure	4,649	14.8
§5K3.1 Early Disposition Program Departure	1,900	6.1
Government-Sponsored Departure <sup>6</sup>	892	2.8
<b>DEPARTURE BELOW GUIDELINE RANGE</b>	<b>1,038</b>	<b>3.3</b>
Downward Departure from the Guideline Range <sup>2</sup>	732	2.3
Downward Departure with Booker/18 USC §3553 <sup>3</sup>	306	1.0
<b>OTHERWISE BELOW THE GUIDELINE RANGE</b>	<b>3,076</b>	<b>9.8</b>
Below the Range with Booker/18 USC §3553 <sup>4</sup>	1,925	6.1
All Remaining Cases Below the Guideline Range <sup>5</sup>	1,151	3.7

<sup>1</sup>This table reflects the 32,406 cases sentenced subsequent to the *US v. Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by August 3, 2005. Of this total, there are 1,074 cases excluded for one of two general reasons. Some excluded cases involve certain Class A misdemeanors or other offenses which do not reference a sentencing guideline. Other excluded cases have information missing from the submitted documents that prevents the comparison of the sentence and the guideline range. As missing documents are received, subsequent U.S. Sentencing Commission data releases will incorporate the new information.

<sup>2</sup>All cases with imposed sentences outside of the guideline range and citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual.

<sup>3</sup>All cases with imposed sentences outside of the guideline range citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual, and additionally mentioning either *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

<sup>4</sup>All cases with imposed sentences outside of the guideline range mentioning only *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

<sup>5</sup>Cases with imposed sentences outside of the guideline range that do not fall into the three previous categories. Based on the information submitted on the Statement of Reasons, these cases cannot be classified as a guideline departure, or as a sentence outside the guideline range pursuant to Booker/18 USC §3553. This category includes cases which cite departure reasons that are not affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual and cases which do not provide any reason for the sentence outside of the guideline range.

<sup>6</sup>Cases with a reason for departure indicating that the prosecution initiates, proposes, or stipulates to a sentence outside of the guideline range, either pursuant to a plea agreement or as part of a non-plea negotiation with the defendant.

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extraction on August 3, 2005; table prepared on August 17, 2005). Numbers may not sum to 100 percent due to rounding.

# MOST FREQUENTLY APPLIED GUIDELINES: COMPARISON OF SENTENCE IMPOSED AND POSITION RELATIVE TO THE GUIDELINE RANGE

Cases Sentenced Subsequent to *US v. Booker* with Data Available to USSC on August 3, 2005

	Four Most Frequently Applied Primary Guidelines									
	All Cases		§2D1.1 Drug Trafficking		§2L1.2 Unlawful Entry		§2K2.1 Firearms		§2B1.1 Theft and Fraud	
	N	%	N	%	N	%	N	%	N	%
<b>TOTAL<sup>1</sup></b>	<b>31,332</b>	<b>100.0</b>	<b>10,934</b>	<b>100.0</b>	<b>4,697</b>	<b>100.0</b>	<b>3,158</b>	<b>100.0</b>	<b>3,108</b>	<b>100.0</b>
<b>WITHIN GUIDELINE RANGE</b>	<b>19,334</b>	<b>61.7</b>	<b>5,885</b>	<b>53.8</b>	<b>2,654</b>	<b>56.5</b>	<b>2,204</b>	<b>69.8</b>	<b>2,185</b>	<b>70.3</b>
<b>DEPARTURE ABOVE GUIDELINE</b>	<b>93</b>	<b>0.3</b>	<b>4</b>	<b>0.0</b>	<b>11</b>	<b>0.2</b>	<b>16</b>	<b>0.5</b>	<b>15</b>	<b>0.5</b>
Upward Departure from the Guideline Range <sup>2</sup>	60	0.2	4	0.0	7	0.1	11	0.3	9	0.3
Upward Departure with Booker/18 USC §3553 <sup>3</sup>	33	0.1	0	0.0	4	0.1	5	0.2	6	0.2
<b>OTHERWISE ABOVE THE RANGE</b>	<b>350</b>	<b>1.1</b>	<b>46</b>	<b>0.4</b>	<b>44</b>	<b>0.9</b>	<b>51</b>	<b>1.6</b>	<b>72</b>	<b>2.3</b>
Above the Range with Booker/18 USC §3553 <sup>4</sup>	196	0.6	30	0.3	29	0.6	22	0.7	34	1.1
All Remaining Cases Above the Guideline Range <sup>5</sup>	154	0.5	16	0.1	15	0.3	29	0.9	38	1.2
<b>GOVERNMENT BELOW GUIDELINE</b>	<b>7,441</b>	<b>23.7</b>	<b>3,552</b>	<b>32.7</b>	<b>1,492</b>	<b>31.8</b>	<b>403</b>	<b>13.4</b>	<b>370</b>	<b>11.9</b>
§5K1.1 Substantial Assistance Departure	4,649	14.8	2,868	26.2	32	0.7	314	9.9	303	9.8
§5K3.1 Early Disposition Program Departure	1,900	6.1	392	3.6	1,304	27.8	10	0.3	5	0.2
Government-Sponsored Departure <sup>6</sup>	892	2.8	292	2.7	156	3.3	79	2.5	62	2.0
<b>DEPARTURE BELOW GUIDELINE</b>	<b>1,038</b>	<b>3.3</b>	<b>323</b>	<b>3.0</b>	<b>172</b>	<b>3.3</b>	<b>136</b>	<b>4.4</b>	<b>107</b>	<b>3.4</b>
Downward Departure from the Guideline Range <sup>2</sup>	732	2.3	236	2.2	129	2.7	83	2.6	71	2.3
Downward Departure with Booker/18 USC §3553 <sup>3</sup>	306	1.0	87	0.8	43	0.9	53	1.7	36	1.2
<b>OTHERWISE BELOW THE RANGE</b>	<b>3,076</b>	<b>9.8</b>	<b>1,124</b>	<b>10.3</b>	<b>324</b>	<b>7.5</b>	<b>348</b>	<b>10.5</b>	<b>359</b>	<b>11.6</b>
Below the Range with Booker/18 USC §3553 <sup>4</sup>	1,925	6.1	736	6.7	206	4.4	225	7.1	191	6.1
All Remaining Cases Below the Guideline Range <sup>5</sup>	1,151	3.7	388	3.5	118	2.5	123	3.9	168	5.4

<sup>1</sup>This table reflects the 32,406 cases sentenced subsequent to the *US v. Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by August 3, 2005. Of this total, there are 1,074 cases excluded for one of two general reasons. Some excluded cases involve certain Class A misdemeanors or other offenses which do not reference a sentencing guideline. Other excluded cases have information missing from the submitted documents that prevents the comparison of the sentence and the guideline range. As missing documents are received, subsequent U.S. Sentencing Commission data releases will incorporate the new information.

<sup>2</sup>All cases with imposed sentences outside of the guideline range and citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual.

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<sup>4</sup>All cases with imposed sentences outside of the guideline range mentioning only *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

<sup>5</sup>Cases with imposed sentences outside of the guideline range that do not fall into the three previous categories. Based on the information submitted on the Statement of Reasons, these cases cannot be classified as a guideline departure, or as a sentence outside the guideline range pursuant to Booker/18 USC §3553. This category includes cases which cite departure reasons that are *not* affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual and cases which do not provide any reason for the sentence outside of the guideline range.

<sup>6</sup>Cases with a reason for departure indicating that the prosecution initiates, proposes, or stipulates to a sentence outside of the guideline range, either pursuant to a plea agreement or as part of a non-plea negotiation with the defendant.

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extraction on August 3, 2005; table prepared on August 17, 2005). Cases with multiple guideline calculations are classified by the guideline with the highest offense level. Numbers may not sum to 100 percent due to rounding.

**OFFENDERS SENTENCED FOR EACH CHAPTER TWO GUIDELINE<sup>1</sup>**  
**Special Post-Booker Coding Project (Data Extracted August 3, 2005)**

Guideline	As Primary Guideline		As Any Guideline		Guideline	As Primary Guideline		As Any Guideline	
	n	%	n	%		n	%	n	%
2A1.1	69	0.2	75	0.2	2D1.8	27	0.1	52	0.2
2A1.2	14	0.0	18	0.1	2D1.9	0	0.0	0	0.0
2A1.3	9	0.0	9	0.0	2D1.10	12	0.0	13	0.0
2A1.4	21	0.1	21	0.1	2D1.11	84	0.3	98	0.3
2A1.5	6	0.0	17	0.1	2D1.12	18	0.1	35	0.1
2A2.1	13	0.0	24	0.1	2D1.13	0	0.0	0	0.0
2A2.2	173	0.6	195	0.6	2D2.1	177	0.6	224	0.7
2A2.3	17	0.1	19	0.1	2D2.2	13	0.0	17	0.1
2A2.4	58	0.2	68	0.2	2D2.3	1	0.0	1	0.0
2A3.1	70	0.2	75	0.2	2D3.1	3	0.0	3	0.0
2A3.2	79	0.3	93	0.3	2D3.2	0	0.0	0	0.0
2A3.3	4	0.0	5	0.0	2D3.3	0	0.0	0	0.0
2A3.4	18	0.1	24	0.1	2D3.4	0	0.0	0	0.0
2A4.1	28	0.1	37	0.1	2D3.5	0	0.0	0	0.0
2A4.2	1	0.0	1	0.0	2E1.1	18	0.1	62	0.2
2A5.1	0	0.0	0	0.0	2E1.2	8	0.0	49	0.1
2A5.2	2	0.0	2	0.0	2E1.3	0	0.0	9	0.0
2A5.3	0	0.0	0	0.0	2E1.4	6	0.0	8	0.0
2A6.1	70	0.2	74	0.2	2E1.5	0	0.0	0	0.0
2A6.2	3	0.0	8	0.0	2E2.1	16	0.1	21	0.1
2B1.1	3,212	10.7	3,520	10.6	2E3.1	56	0.2	69	0.2
2B1.2	0	0.0	0	0.0	2E3.2	0	0.0	0	0.0
2B1.3	4	0.0	4	0.0	2E3.3	0	0.0	0	0.0
2B1.4	0	0.0	0	0.0	2E4.1	14	0.0	23	0.1
2B1.5	4	0.0	4	0.0	2E5.1	9	0.0	12	0.0
2B2.1	30	0.1	33	0.1	2E5.2	0	0.0	0	0.0
2B2.2	0	0.0	0	0.0	2E5.3	2	0.0	6	0.0
2B2.3	1	0.0	1	0.0	2E5.4	0	0.0	0	0.0
2B3.1	869	2.9	930	2.8	2E5.5	0	0.0	0	0.0
2B3.2	25	0.1	40	0.1	2E5.6	0	0.0	0	0.0
2B3.3	7	0.0	12	0.0	2F1.1	627	2.1	676	2.0
2B4.1	33	0.1	35	0.1	2F1.2	2	0.0	3	0.0
2B5.1	203	0.7	221	0.7	2G1.1	38	0.1	69	0.2
2B5.2	0	0.0	0	0.0	2G1.2	0	0.0	0	0.0
2B5.3	65	0.2	75	0.2	2G1.3	15	0.0	15	0.0
2B5.4	0	0.0	0	0.0	2G2.1	48	0.2	56	0.2
2B6.1	8	0.0	8	0.0	2G2.2	212	0.7	223	0.7
2C1.1	106	0.4	120	0.4	2G2.3	0	0.0	0	0.0
2C1.2	10	0.0	10	0.0	2G2.4	207	0.7	239	0.7
2C1.3	3	0.0	3	0.0	2G2.5	1	0.0	1	0.0
2C1.4	1	0.0	1	0.0	2G3.1	8	0.0	9	0.0
2C1.5	0	0.0	0	0.0	2G3.2	0	0.0	0	0.0
2C1.6	0	0.0	0	0.0	2H1.1	23	0.1	25	0.1
2C1.7	16	0.1	19	0.1	2H1.2	0	0.0	0	0.0
2D1.1	11,181	37.1	11,734	35.4	2H1.3	0	0.0	0	0.0
2D1.2	149	0.5	156	0.5	2H1.4	0	0.0	0	0.0
2D1.3	0	0.0	0	0.0	2H1.5	0	0.0	0	0.0
2D1.4	0	0.0	0	0.0	2H2.1	6	0.0	7	0.0
2D1.5	10	0.0	12	0.0	2H3.1	3	0.0	4	0.0
2D1.6	15	0.0	91	0.3	2H3.2	0	0.0	0	0.0
2D1.7	9	0.0	10	0.0	2H3.3	6	0.0	9	0.0

(continued)

Guideline	As Primary Guideline		As Any Guideline		Guideline	As Primary Guideline		As Any Guideline	
	n	%	n	%		n	%	n	%
2H4.1	6	0.0	6	0.0	2M4.1	0	0.0	0	0.0
2H4.2	0	0.0	0	0.0	2M5.1	3	0.0	3	0.0
2J1.1	0	0.0	13	0.0	2M5.2	13	0.0	15	0.0
2J1.2	56	0.2	81	0.2	2M5.3	1	0.0	4	0.0
2J1.3	28	0.1	44	0.1	2M6.1	7	0.0	7	0.0
2J1.4	8	0.0	15	0.0	2M6.2	1	0.0	1	0.0
2J1.5	2	0.0	2	0.0	2N1.1	0	0.0	0	0.0
2J1.6	25	0.1	38	0.1	2N1.2	1	0.0	1	0.0
2J1.7	68	0.2	71	0.2	2N1.3	0	0.0	0	0.0
2J1.8	0	0.0	0	0.0	2N2.1	17	0.1	35	0.1
2J1.9	0	0.0	0	0.0	2N3.1	1	0.0	3	0.0
2K1.1	3	0.0	4	0.0	2P1.1	102	0.3	115	0.3
2K1.2	0	0.0	0	0.0	2P1.2	44	0.1	54	0.2
2K1.3	19	0.1	20	0.1	2P1.3	7	0.0	7	0.0
2K1.4	19	0.1	25	0.1	2P1.4	0	0.0	0	0.0
2K1.5	9	0.0	9	0.0	2Q1.1	0	0.0	0	0.0
2K1.6	1	0.0	1	0.0	2Q1.2	19	0.1	21	0.1
2K1.7	0	0.0	0	0.0	2Q1.3	26	0.1	26	0.1
2K2.1	3,208	10.7	3,485	10.5	2Q1.4	0	0.0	0	0.0
2K2.2	0	0.0	0	0.0	2Q1.5	0	0.0	0	0.0
2K2.3	0	0.0	0	0.0	2Q1.6	0	0.0	0	0.0
2K2.4	1	0.0	2	0.0	2Q2.1	55	0.2	58	0.2
2K2.5	6	0.0	7	0.0	2Q2.2	0	0.0	0	0.0
2K2.6	1	0.0	2	0.0	2R1.1	8	0.0	9	0.0
2K3.1	0	0.0	0	0.0	2S1.1	451	1.5	541	1.6
2L1.1	1,388	4.6	1,431	4.3	2S1.2	11	0.0	22	0.1
2L1.2	4,763	15.8	4,827	14.6	2S1.3	120	0.4	145	0.4
2L1.3	0	0.0	0	0.0	2S1.4	0	0.0	0	0.0
2L2.1	212	0.7	229	0.7	2T1.1	251	0.8	313	0.9
2L2.2	461	1.5	495	1.5	2T1.2	0	0.0	0	0.0
2L2.3	0	0.0	0	0.0	2T1.3	1	0.0	1	0.0
2L2.4	0	0.0	0	0.0	2T1.4	51	0.2	55	0.2
2L2.5	0	0.0	0	0.0	2T1.5	0	0.0	0	0.0
2M1.1	1	0.0	1	0.0	2T1.6	4	0.0	5	0.0
2M2.1	0	0.0	0	0.0	2T1.7	0	0.0	0	0.0
2M2.2	0	0.0	0	0.0	2T1.8	0	0.0	0	0.0
2M2.3	0	0.0	0	0.0	2T1.9	2	0.0	6	0.0
2M2.4	0	0.0	0	0.0	2T2.1	0	0.0	0	0.0
2M3.1	0	0.0	0	0.0	2T2.2	0	0.0	0	0.0
2M3.2	0	0.0	0	0.0	2T3.1	18	0.1	23	0.1
2M3.3	1	0.0	1	0.0	2T3.2	0	0.0	0	0.0
2M3.4	0	0.0	0	0.0	2T4.1	0	0.0	0	0.0
2M3.5	0	0.0	0	0.0	2X1.1	65	0.2	701	2.1
2M3.6	0	0.0	0	0.0	2X2.1	0	0.0	30	0.1
2M3.7	0	0.0	0	0.0	2X3.1	58	0.2	66	0.2
2M3.8	0	0.0	0	0.0	2X4.1	201	0.7	210	0.6
2M3.9	0	0.0	0	0.0	2X5.1	0	0.0	28	0.1
Total number of guidelines applied:					33,156				
Number of cases with at least one guideline applied:					30,100				

<sup>1</sup>Of the 32,406 cases, 2,306 were excluded due to missing guideline applied. The total for any guideline can exceed that for primary guideline because a case can have several guidelines applied, but only one primary guideline.

**GUIDELINE OFFENDERS IN EACH CIRCUIT AND DISTRICT<sup>1</sup>**  
**Special Post-Booker Coding Project (Data Extracted August 3, 2005)**

<b>CIRCUIT</b>			<b>CIRCUIT</b>		
District	Number	Percent	District	Number	Percent
<b>TOTAL</b>	<b>32,406</b>	<b>100.0</b>			
<b>D.C. CIRCUIT</b>	<b>266</b>	<b>0.8</b>	<b>FIFTH CIRCUIT</b>	<b>7,243</b>	<b>22.4</b>
District of Columbia	266	0.8	Louisiana		
			Eastern	153	0.5
			Middle	95	0.3
			Western	219	0.7
<b>FIRST CIRCUIT</b>	<b>724</b>	<b>2.2</b>	Mississippi		
Maine	118	0.4	Northern	102	0.3
Massachusetts	214	0.7	Southern	196	0.6
New Hampshire	95	0.3	Texas		
Puerto Rico	236	0.7	Eastern	413	1.3
Rhode Island	61	0.2	Northern	451	1.4
			Southern	3,112	9.6
<b>SECOND CIRCUIT</b>	<b>1,819</b>	<b>5.6</b>	Western	2,502	7.7
Connecticut	179	0.6			
New York			<b>SIXTH CIRCUIT</b>	<b>2,431</b>	<b>7.5</b>
Eastern	618	1.9	Kentucky		
Northern	173	0.5	Eastern	206	0.6
Southern	471	1.5	Western	179	0.6
Western	272	0.8	Michigan		
Vermont	106	0.3	Eastern	318	1.0
			Western	193	0.6
<b>THIRD CIRCUIT</b>	<b>1,655</b>	<b>5.1</b>	Ohio		
Delaware	87	0.3	Northern	436	1.3
New Jersey	499	1.5	Southern	300	0.9
Pennsylvania			Tennessee		
Eastern	509	1.6	Eastern	319	1.0
Middle	317	1.0	Middle	152	0.5
Western	198	0.6	Western	328	1.0
Virgin Islands	45	0.1			
			<b>SEVENTH CIRCUIT</b>	<b>1,429</b>	<b>4.4</b>
<b>FOURTH CIRCUIT</b>	<b>3,012</b>	<b>9.3</b>	Illinois		
Maryland	346	1.1	Central	195	0.6
North Carolina			Northern	510	1.6
Eastern	310	1.0	Southern	116	0.4
Middle	250	0.8	Indiana		
Western	248	0.8	Northern	196	0.6
South Carolina	506	1.6	Southern	145	0.4
Virginia			Wisconsin		
Eastern	712	2.2	Eastern	177	0.5
Western	319	1.0	Western	90	0.3
West Virginia					
Northern	138	0.4			
Southern	183	0.6			

(continued)

<b>CIRCUIT</b>			<b>CIRCUIT</b>		
District	Number	Percent	District	Number	Percent
<b>EIGHTH CIRCUIT</b>	<b>2,365</b>	<b>7.3</b>	<b>TENTH CIRCUIT</b>	<b>2,540</b>	<b>7.8</b>
Arkansas			Colorado	323	1.0
Eastern	121	0.4	Kansas	334	1.0
Western	87	0.3	New Mexico	1,100	3.4
Iowa			Oklahoma		
Northern	176	0.5	Eastern	48	0.1
Southern	167	0.5	Northern	83	0.3
Minnesota	246	0.8	Western	109	0.3
Missouri			Utah	441	1.4
Eastern	479	1.5	Wyoming	102	0.3
Western	337	1.0			
Nebraska	436	1.3	<b>ELEVENTH CIRCUIT</b>	<b>3,067</b>	<b>9.5</b>
North Dakota	105	0.3	Alabama		
South Dakota	211	0.7	Middle	95	0.3
			Northern	179	0.6
<b>NINTH CIRCUIT</b>	<b>5,855</b>	<b>18.1</b>	Southern	125	0.4
Alaska	115	0.4	Florida		
Arizona	1,796	5.5	Middle	854	2.6
California			Northern	158	0.5
Central	502	1.5	Southern	971	3.0
Eastern	377	1.2	Georgia		
Northern	314	1.0	Middle	187	0.6
Southern	1,126	3.5	Northern	325	1.0
Guam	35	0.1	Southern	173	0.5
Hawaii	236	0.7			
Idaho	95	0.3			
Montana	202	0.6			
Nevada	211	0.7			
Northern Mariana Islands	14	0.0			
Oregon	250	0.8			
Washington					
Eastern	199	0.6			
Western	383	1.2			

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extracted August 3, 2005; table prepared August 17, 2005). Percents may not sum to 100 percent due to rounding.



## Guideline Application Trends, National and Circuit

Fiscal Years 2000, 2001, 2002, 2003, and Post-Booker FY2005<sup>1</sup>

(Post-Booker data extracted August 3, 2005)

### NATIONAL

Position of Sentence Relative to Guideline Range	FY2000	FY2001	FY2002	FY2003	FY2005 (Booker)
Within Range	64.5%	64.0%	65.0%	69.4%	61.7%
Upward Departures	0.7%	0.6%	0.8%	0.8%	0.3% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.1% <sup>3</sup>
Substantial Assistance Departures	17.9%	17.1%	17.4%	15.9%	14.8%
Other Gov't Sponsored Departures	—	—	—	6.3% <sup>4</sup>	8.9% <sup>4</sup>
Other Downward Departures	17.0% <sup>5</sup>	18.3% <sup>5</sup>	16.8% <sup>5</sup>	7.5%	3.3% <sup>2</sup>
Otherwise Below Range	—	—	—	—	9.8% <sup>3</sup>

### DC CIRCUIT

Position of Sentence Relative to Guideline Range	FY2000	FY2001	FY2002	FY2003	FY2005 (Booker)
Within Range	69.4%	74.6%	59.9%	64.6%	55.1%
Upward Departures	0.3%	0.4%	0.5%	0.2%	0.0% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.1% <sup>3</sup>
Substantial Assistance Departures	19.3%	13.8%	31.1%	26.4%	24.3%
Other Gov't Sponsored Departures	—	—	—	4.4% <sup>4</sup>	7.2% <sup>4</sup>
Other Downward Departures	11.0% <sup>5</sup>	11.2% <sup>5</sup>	8.5% <sup>5</sup>	4.4%	2.7% <sup>2</sup>
Otherwise Below Range	—	—	—	—	9.5% <sup>3</sup>

### FIRST CIRCUIT

Position of Sentence Relative to Guideline Range	FY2000	FY2001	FY2002	FY2003	FY2005 (Booker)
Within Range	69.9%	73.3%	75.7%	77.3%	62.9%
Upward Departures	0.8%	0.4%	0.6%	0.7%	0.1% <sup>2</sup>
Otherwise Above Range	—	—	—	—	2.8% <sup>3</sup>
Substantial Assistance Departures	15.9%	14.6%	14.4%	13.5%	12.0%
Other Gov't Sponsored Departures	—	—	—	0.7% <sup>4</sup>	2.6% <sup>4</sup>
Other Downward Departures	13.4% <sup>5</sup>	11.7% <sup>5</sup>	9.3% <sup>5</sup>	7.8%	3.9% <sup>2</sup>
Otherwise Below Range	—	—	—	—	15.8% <sup>3</sup>

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**Guideline Application Trends, National and Circuit**Fiscal Years 2000, 2001, 2002, 2003, and Post-Booker FY2005<sup>1</sup>**SECOND CIRCUIT**

<b>Position of Sentence Relative to Guideline Range</b>	<b>FY2000</b>	<b>FY2001</b>	<b>FY2002</b>	<b>FY2003</b>	<b>FY2005 (Booker)</b>
Within Range	55.9%	57.5%	61.3%	63.2%	48.8%
Upward Departures	0.7%	0.4%	0.6%	0.5%	0.1% <sup>2</sup>
Otherwise Above Range	—	—	—	—	0.8% <sup>3</sup>
Substantial Assistance Departures	23.9%	21.7%	19.0%	17.5%	21.7%
Other Gov't Sponsored Departures	—	—	—	2.8% <sup>4</sup>	2.8% <sup>4</sup>
Other Downward Departures	19.6% <sup>5</sup>	20.4% <sup>5</sup>	19.1% <sup>5</sup>	16.0%	7.6% <sup>2</sup>
Otherwise Below Range	—	—	—	—	18.3% <sup>3</sup>

**THIRD CIRCUIT**

<b>Position of Sentence Relative to Guideline Range</b>	<b>FY2000</b>	<b>FY2001</b>	<b>FY2002</b>	<b>FY2003</b>	<b>FY2005 (Booker)</b>
Within Range	59.7%	60.2%	58.9%	62.3%	50.0%
Upward Departures	0.7%	0.5%	0.9%	0.9%	0.3% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.5% <sup>3</sup>
Substantial Assistance Departures	30.5%	30.6%	32.3%	28.8%	28.5%
Other Gov't Sponsored Departures	—	—	—	0.6% <sup>4</sup>	1.7% <sup>4</sup>
Other Downward Departures	9.1% <sup>5</sup>	8.8% <sup>5</sup>	7.9% <sup>5</sup>	7.4%	3.7% <sup>2</sup>
Otherwise Below Range	—	—	—	—	14.4% <sup>3</sup>

**FOURTH CIRCUIT**

<b>Position of Sentence Relative to Guideline Range</b>	<b>FY2000</b>	<b>FY2001</b>	<b>FY2002</b>	<b>FY2003</b>	<b>FY2005 (Booker)</b>
Within Range	73.4%	73.7%	76.6%	77.0%	65.8%
Upward Departures	0.8%	0.9%	0.7%	0.6%	0.4% <sup>2</sup>
Otherwise Above Range	—	—	—	—	0.8% <sup>3</sup>
Substantial Assistance Departures	20.9%	20.2%	18.6%	18.3%	18.7%
Other Gov't Sponsored Departures	—	—	—	0.3% <sup>4</sup>	1.6% <sup>4</sup>
Other Downward Departures	5.0% <sup>5</sup>	5.2% <sup>5</sup>	4.2% <sup>5</sup>	3.8%	2.4% <sup>2</sup>
Otherwise Below Range	—	—	—	—	10.2% <sup>3</sup>

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## Guideline Application, National and Circuit

Fiscal Years 2000, 2001, 2002, 2003, and Post-Booker FY2005<sup>1</sup>

### FIFTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2000	FY2001	FY2002	FY2003	FY2005 (Booker)
Within Range	72.3%	69.1%	71.0%	73.7%	71.5%
Upward Departures	0.5%	0.5%	0.9%	0.9%	0.3% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.5% <sup>3</sup>
Substantial Assistance Departures	13.6%	12.3%	13.4%	12.5%	8.4%
Other Gov't Sponsored Departures	—	—	—	5.4% <sup>4</sup>	8.8% <sup>4</sup>
Other Downward Departures	13.6% <sup>5</sup>	18.1% <sup>5</sup>	14.7% <sup>5</sup>	7.5%	2.7% <sup>2</sup>
Otherwise Below Range	—	—	—	—	7.0% <sup>3</sup>

### SIXTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2000	FY2001	FY2002	FY2003	FY2005 (Booker)
Within Range	67.2%	65.1%	66.9%	69.1%	59.6%
Upward Departures	0.6%	0.5%	0.8%	0.4%	0.2% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.0% <sup>3</sup>
Substantial Assistance Departures	24.4%	27.2%	26.0%	24.6%	24.0%
Other Gov't Sponsored Departures	—	—	—	0.5% <sup>4</sup>	1.8% <sup>4</sup>
Other Downward Departures	7.7% <sup>5</sup>	7.3% <sup>5</sup>	6.3% <sup>5</sup>	5.3%	2.3% <sup>2</sup>
Otherwise Below Range	—	—	—	—	11.1% <sup>3</sup>

### SEVENTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2000	FY2001	FY2002	FY2003	FY2005 (Booker)
Within Range	69.5%	71.0%	69.3%	72.5%	62.0%
Upward Departures	1.1%	1.0%	0.8%	1.0%	0.5% <sup>2</sup>
Otherwise Above Range	—	—	—	—	0.9% <sup>3</sup>
Substantial Assistance Departures	21.7%	21.2%	21.8%	21.2%	17.7%
Other Gov't Sponsored Departures	—	—	—	0.8% <sup>4</sup>	2.4% <sup>4</sup>
Other Downward Departures	7.7% <sup>5</sup>	6.9% <sup>5</sup>	8.1% <sup>5</sup>	4.5%	3.5% <sup>2</sup>
Otherwise Below Range	—	—	—	—	13.0% <sup>3</sup>

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## Guideline Application Trends By Circuit

Fiscal Years 2000, 2001, 2002, 2003, and Post-Booker FY2005<sup>1</sup>

### EIGHTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2000	FY2001	FY2002	FY2003	FY2005 (Booker)
Within Range	65.4%	66.8%	69.3%	72.2%	64.1%
Upward Departures	1.2%	0.7%	1.2%	1.1%	0.2% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.4% <sup>3</sup>
Substantial Assistance Departures	23.1%	22.0%	18.9%	17.6%	14.9%
Other Gov't Sponsored Departures	—	—	—	2.0% <sup>4</sup>	4.7% <sup>4</sup>
Other Downward Departures	10.3% <sup>5</sup>	10.5% <sup>5</sup>	10.7% <sup>5</sup>	7.1%	3.4% <sup>2</sup>
Otherwise Below Range	—	—	—	—	11.3% <sup>3</sup>

### NINTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2000	FY2001	FY2002	FY2003	FY2005 (Booker)
Within Range	49.9%	50.1%	48.8%	59.6%	49.4%
Upward Departures	0.6%	0.4%	0.7%	1.1%	0.3% <sup>2</sup>
Otherwise Above Range	—	—	—	—	0.7% <sup>3</sup>
Substantial Assistance Departures	11.6%	10.7%	11.8%	10.2%	10.5%
Other Gov't Sponsored Departures	—	—	—	19.2% <sup>4</sup>	26.9% <sup>4</sup>
Other Downward Departures	37.9% <sup>5</sup>	38.7% <sup>5</sup>	38.7% <sup>5</sup>	9.9%	3.8% <sup>2</sup>
Otherwise Below Range	—	—	—	—	8.4% <sup>3</sup>

### TENTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2000	FY2001	FY2002	FY2003	FY2005 (Booker)
Within Range	69.9%	65.0%	66.6%	73.1%	65.3%
Upward Departures	0.4%	0.7%	0.6%	0.6%	0.1% <sup>2</sup>
Otherwise Above Range	—	—	—	—	0.6% <sup>3</sup>
Substantial Assistance Departures	10.9%	11.0%	11.0%	9.4%	10.7%
Other Gov't Sponsored Departures	—	—	—	11.4% <sup>4</sup>	13.0% <sup>4</sup>
Other Downward Departures	18.8% <sup>5</sup>	23.3% <sup>5</sup>	21.9% <sup>5</sup>	5.5%	3.1% <sup>2</sup>
Otherwise Below Range	—	—	—	—	7.1% <sup>3</sup>

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## Guideline Application Trends By Circuit

Fiscal Years 2000, 2001, 2002, 2003, and Post-Booker FY2005<sup>1</sup>

### ELEVENTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2000	FY2001	FY2002	FY2003	FY2005 (Booker)
Within Range	71.0%	72.1	70.2%	74.5%	67.8%
Upward Departures	0.7%	0.6%	0.7%	0.8%	0.6% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.3% <sup>3</sup>
Substantial Assistance Departures	21.4%	19.9%	22.4%	19.9%	17.7%
Other Gov't Sponsored Departures	—	—	—	0.3% <sup>4</sup>	1.2% <sup>4</sup>
Other Downward Departures	6.9% <sup>5</sup>	7.5% <sup>5</sup>	6.7% <sup>5</sup>	4.5%	2.8% <sup>2</sup>
Otherwise Below Range	—	—	—	—	8.6% <sup>3</sup>

<sup>1</sup>In 2003, the Commission augmented its data coding procedures to determine the proportion of non-substantial assistance downward departures that were initiated by the government. Data prior to 2003 does not distinguish non-substantial assistance government initiated downward departures from other downward departures. In this table, data from FY2000, 2001, and 2002 on “Other Downward Departures” includes both government initiated and non-government initiated downward departures. For FY2003, the “Other Downward Departures” data distinguishes departures that were initiated or supported by the government from those not initiated/supported by the government. For example, using the national data, 6.3% of downward departures were government initiated and 7.5% were other downward departures; the combination of these values (13.8%) is directly comparable to the data for “Other Downward Departures” from the preceding years. For FY2005, this table reflects cases sentenced subsequent to the *US v Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by August 3, 2005. In these cases, a further distinction is made among below guideline range sentences. The data report three categories of below range sentences: those initiated/supported by the government; those not initiated by the government and citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual; and those mentioning only *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for a sentence outside of the guideline range. Cases citing both reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual and mentioning *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors are included in the “Other Downward Departures” category.

<sup>2</sup>Includes cases with imposed sentences outside of the guideline range and citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual and all cases with imposed sentences outside of the guideline range citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual, and additionally mentioning either *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for a sentence outside of the guideline range.

<sup>3</sup>Includes cases with imposed sentences outside of the guideline range mentioning only *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for a sentence outside of the guideline range and all cases with imposed sentences outside of the guideline range that do not fall into the previous category. This category includes cases which cite departure reasons that are *not* affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual and cases which do not provide any reason for the sentence outside of the guideline range.

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<sup>4</sup>Cases with a reason for departure indicating that the prosecution initiates, proposes, or stipulates to a sentence outside of the guideline range, either pursuant to a plea agreement or as part of a non-plea negotiation with the defendant. Note that §5K3.1 (Early Disposition Program) cases are included in this category.

<sup>5</sup>Includes cases in which the below range sentence was initiated/supported by the government and those not initiated/supported by the government. Prior to FY2003, the Commission did not code this distinction.

SOURCE: U.S. Sentencing Commission Sourcebook of Federal Sentencing, FY2000 through FY2003, Table 26; Special Post-Booker Coding Project, BOOKER05 (data extracted August 3, 2005; table prepared August 17, 2005). Percents may not sum to 100 percent due to rounding.

## Distribution of Offenders Receiving Sentencing Options for the Most Frequently Applied Guidelines

Fiscal Years 1999-2003 and Post-Booker Fiscal Year 2005 (data extracted August 3, 2005)

	FY 1999		FY 2000		FY 2001		FY 2002		FY 2003		Post-Booker	
	N	%	N	%	N	%	N	%	N	%	N	%
<b>Drug Trafficking §2D1.1<sup>1</sup></b>	20,763	100.0	21,715	100.0	22,608	100.0	24,013	100.0	23,833	100.0	10,817	100.0
Prison only <sup>2</sup>	19,406	93.5	20,422	94.0	21,143	93.5	22,407	93.3	22,455	94.2	10,227	94.5
Prison plus confinement conditions <sup>3</sup>	481	2.3	430	2.0	469	2.1	515	2.1	402	1.7	234	2.2
Probation plus confinement conditions <sup>4</sup>	400	1.9	379	1.7	488	2.2	465	1.9	469	2.0	153	1.4
Probation only <sup>5</sup>	476	2.3	484	2.2	508	2.2	626	2.6	507	2.1	203	1.9
<b>Immigration Unlawful Entry §2L1.2<sup>1</sup></b>	5,547	100.0	6,341	100.0	5,946	100.0	6,993	100.0	9,167	100.0	4,710	100.0
Prison only <sup>2</sup>	5,495	99.1	6,291	99.2	5,901	99.2	6,952	99.4	9,132	99.6	4,663	99.0
Prison plus confinement conditions <sup>3</sup>	13	0.2	10	0.2	14	0.2	7	0.1	11	0.1	11	0.2
Probation plus confinement conditions <sup>4</sup>	2	0.0	1	0.0	1	0.0	0	0.0	2	0.0	1	0.0
Probation only <sup>5</sup>	37	0.7	39	0.6	30	0.5	34	0.5	22	0.2	35	0.7
<b>Firearms §2K2.1<sup>1</sup></b>	2,218	100.0	2,997	100.0	3,629	100.0	4,173	100.0	5,425	100.0	3,049	100.0
Prison only <sup>2</sup>	1,976	89.1	2,604	86.9	3,177	87.5	3,680	88.2	4,779	88.1	2,721	89.2
Prison plus confinement conditions <sup>3</sup>	82	3.7	104	3.5	141	3.9	158	3.8	174	3.2	99	3.2
Probation plus confinement conditions <sup>4</sup>	87	3.9	147	4.9	155	4.3	139	3.3	224	4.1	116	3.8
Probation only <sup>5</sup>	73	3.3	142	4.7	156	4.3	196	4.7	248	4.6	113	3.7
<b>Theft/Fraud §2B1.1 or §2F1.1<sup>1</sup></b>	8,979	100.0	9,015	100.0	8,768	100.0	9,243	100.0	9,606	100.0	3,666	100.0
Prison only <sup>2</sup>	4,101	45.7	4,253	47.2	4,339	49.5	4,531	49.0	4,803	50.0	1,971	53.8
Prison plus confinement conditions <sup>3</sup>	1,069	11.9	1,077	11.9	1,053	12.0	959	10.4	840	8.7	340	9.3
Probation plus confinement conditions <sup>4</sup>	1,543	17.2	1,540	17.1	1,481	16.9	1,421	15.4	1,463	15.2	463	12.6
Probation only <sup>5</sup>	2,266	25.2	2,145	23.8	1,895	21.6	2,332	25.2	2,500	26.0	892	24.3

<sup>1</sup>Sections report only cases with one single guideline application using the indicated guideline. Cases receiving only monetary sentences are excluded.

<sup>2</sup>Prison only cases receive straight prison time.

<sup>3</sup>Prison plus confinement cases receive a combination of prison time and alternative confinement time as defined in USSG §5C1.1.

<sup>4</sup>Probation plus confinement cases receive, as a condition of probation, alternative confinement time as defined in USSG §5C1.1.

<sup>5</sup>Probation only cases receive straight probation time.

SOURCE: U.S. Sentencing Commission, 1999-2003 Fiscal Year Datafiles, USSCFY99-USSCFY03; Special Post-Booker Coding Project BOOKER05 (data extraction on August 3, 2005; table prepared August 17, 2005).

## Average and Median Sentence Imposed<sup>1</sup> for the Most Frequently Applied Guidelines

Fiscal Year 1999 and Fiscal Year 2000

	Fiscal Year 1999				Fiscal Year 2000			
	Average Months	Median Months	GL Median <sup>2</sup>	N	Average Months	Median Months	GL Median <sup>2</sup>	N
<b>All Cases (one guideline computation)<sup>3</sup></b>	<b>51</b>	<b>30</b>		<b>48,611</b>	<b>50</b>	<b>30</b>		<b>51,342</b>
<b>Drug Trafficking §2D1.1<sup>4</sup></b>	<b>71</b>	<b>48</b>	<b>60</b>	<b>20,763</b>	<b>72</b>	<b>50</b>	<b>60</b>	<b>21,715</b>
Prison only <sup>5</sup>	74	51	60	19,406	74	57	63	20,422
Prison plus confinement conditions <sup>6</sup>	26	10	18	481	21	10	21	430
Probation plus confinement conditions <sup>7</sup>	6	6	12	400	6	6	12	379
Probation only <sup>8</sup>	0	0	—	476	0	0	—	484
<b>Immigration Unlawful Entry §2L1.2<sup>4</sup></b>	<b>35</b>	<b>30</b>	<b>46</b>	<b>5,547</b>	<b>36</b>	<b>33</b>	<b>46</b>	<b>6,341</b>
Prison only <sup>5</sup>	35	30	46	5,495	36	33	33	6,291
Prison plus confinement conditions <sup>6</sup>	33	33	70	13	21	10	10	10
Probation plus confinement conditions <sup>7</sup>	—	—	—	2	—	—	—	1
Probation only <sup>8</sup>	0	0	—	37	0	0	—	39
<b>Firearms §2K2.1<sup>4</sup></b>	<b>58</b>	<b>37</b>	<b>37</b>	<b>2,218</b>	<b>53</b>	<b>37</b>	<b>37</b>	<b>2,997</b>
Prison only <sup>5</sup>	62	41	41	1,976	57	37	41	2,604
Prison plus confinement conditions <sup>6</sup>	21	10	12	82	23	10	12	104
Probation plus confinement conditions <sup>7</sup>	6	6	12	87	7	6	12	147
Probation only <sup>8</sup>	0	0	—	73	0	0	—	142
<b>Theft/Fraud §2B1.1 or §2F1.1<sup>4</sup></b>	<b>14</b>	<b>10</b>	<b>10</b>	<b>8,979</b>	<b>14</b>	<b>10</b>	<b>10</b>	<b>9,015</b>
Prison only <sup>5</sup>	18	14	15	4,101	19	15	15	4,253
Prison plus confinement conditions <sup>6</sup>	9	8	8	1,069	9	8	8	1,077
Probation plus confinement conditions <sup>7</sup>	5	6	6	1,543	5	6	6	1,540
Probation only <sup>8</sup>	0	0	—	2,266	0	0	—	2,145

<sup>1</sup>Sentence data report the sum of imprisonment and any type of confinement as defined in USSG §5C1.1.

<sup>2</sup>For the guideline range of the sentencing table applied to the case, the lower value of the sentencing range.

<sup>3</sup>All statistics in the table report data for cases with one single guideline computation for the specified fiscal year. The “All Cases” row reports all cases regardless of the one guideline applied. Cases receiving only monetary sentences are excluded.

<sup>4</sup>Each guideline-specific section reports only cases with one single guideline application using the indicated guideline.

<sup>5</sup>Prison only sentence categories report straight prison time.

<sup>6</sup>Prison plus confinement sentence categories report the sum of prison time and alternative confinement time as defined in USSG §5C1.1.

<sup>7</sup>Probation plus confinement categories report statistics for cases receiving, as a condition of probation, alternative confinement time as defined in USSG §5C1.1.

<sup>8</sup>Probation only categories report cases receiving straight probation time. By definition, the confinement time is zero months for these cases.

SOURCE: U.S. Sentencing Commission, 1999 and 2000 Fiscal Year Datafiles, USSCFY99 and USSCFY00.



## Average and Median Sentence Imposed<sup>1</sup> for the Most Frequently Applied Guidelines

Fiscal Year 2001 and Fiscal Year 2002

	Fiscal Year 2001				Fiscal Year 2002			
	Average Months	Median Months	Lower GL <sup>2</sup>	N	Average Months	Median Months	Lower GL <sup>2</sup>	N
<b>All Cases (one guideline computation)<sup>3</sup></b>	<b>50</b>	<b>30</b>		<b>51,809</b>	<b>51</b>	<b>30</b>		<b>55,856</b>
<b>Drug Trafficking §2D1.1<sup>4</sup></b>	<b>70</b>	<b>48</b>	<b>60</b>	<b>22,608</b>	<b>71</b>	<b>51</b>	<b>60</b>	<b>24,013</b>
Prison only <sup>5</sup>	72	51	60	21,143	74	57	57	22,407
Prison plus confinement conditions <sup>6</sup>	29	10	18	469	22	10	10	515
Probation plus confinement conditions <sup>7</sup>	6	6	12	488	6	6	6	465
Probation only <sup>8</sup>	0	0	—	508	0	0	—	626
<b>Immigration Unlawful Entry §2L1.2<sup>4</sup></b>	<b>35</b>	<b>30</b>	<b>46</b>	<b>5,946</b>	<b>30</b>	<b>27</b>	<b>30</b>	<b>6,993</b>
Prison only <sup>5</sup>	35	30	46	5,901	30	27	30	6,952
Prison plus confinement conditions <sup>6</sup>	20	10	12	14	20	10	10	7
Probation plus confinement conditions <sup>7</sup>	—	—	—	1	—	—	—	0
Probation only <sup>8</sup>	0	0	—	30	0	0	—	34
<b>Firearms §2K2.1<sup>4</sup></b>	<b>52</b>	<b>37</b>	<b>37</b>	<b>3,629</b>	<b>53</b>	<b>37</b>	<b>37</b>	<b>4,173</b>
Prison only <sup>5</sup>	56	40	41	3,177	57	37	37	3,680
Prison plus confinement conditions <sup>6</sup>	22	10	15	141	18	10	12	158
Probation plus confinement conditions <sup>7</sup>	6	6	12	155	6	6	12	139
Probation only <sup>8</sup>	0	0	—	156	0	0	—	196
<b>Theft/Fraud §2B1.1 or §2F1.1<sup>4</sup></b>	<b>15</b>	<b>10</b>	<b>12</b>	<b>8,768</b>	<b>16</b>	<b>10</b>	<b>12</b>	<b>9,243</b>
Prison only <sup>5</sup>	20	15	15	4,339	20	15	15	4,531
Prison plus confinement conditions <sup>6</sup>	9	8	8	1,053	9	10	10	959
Probation plus confinement conditions <sup>7</sup>	5	6	6	1,481	6	6	6	1,421
Probation only <sup>8</sup>	0	0	—	1,895	0	0	—	2,332

<sup>1</sup>Sentence data report the sum of imprisonment and any type of confinement as defined in USSG §5C1.1.

<sup>2</sup>For the guideline range of the sentencing table applied to the case, the lower value of the sentencing range.

<sup>3</sup>All statistics in the table report data for cases with one single guideline computation for the specified fiscal year. The “All Cases” row reports all cases regardless of the one guideline applied. Cases receiving only monetary sentences are excluded.

<sup>4</sup>Each guideline-specific section reports only cases with one single guideline application using the indicated guideline.

<sup>5</sup>Prison only sentence categories report straight prison time.

<sup>6</sup>Prison plus confinement sentence categories report the sum of prison time and alternative confinement time as defined in USSG §5C1.1.

<sup>7</sup>Probation plus confinement categories report statistics for cases receiving, as a condition of probation, alternative confinement time as defined in USSG §5C1.1.

<sup>8</sup>Probation only categories report cases receiving straight probation time. By definition, the confinement time is zero months for these cases.

SOURCE: U.S. Sentencing Commission, 2001 and 2002 Fiscal Year Datafiles, USSCFY01 and USSCFY02.

## Average and Median Sentence Imposed<sup>1</sup> for the Most Frequently Applied Guidelines

Fiscal Year 2003 and Post-Booker Fiscal Year 2005 (data extracted August 3, 2005)

	Fiscal Year 2003				Post-Booker FY2005			
	Average Months	Median Months	GL Median <sup>2</sup>	N	Average Months	Median Months	GL Median <sup>2</sup>	N
<b>All Cases (one guideline computation)<sup>3</sup></b>	<b>52</b>	<b>30</b>		<b>60,786</b>	<b>55</b>	<b>34</b>		<b>28,448</b>
<b>Drug Trafficking §2D1.1<sup>4</sup></b>	<b>77</b>	<b>57</b>	<b>63</b>	<b>23,833</b>	<b>82</b>	<b>60</b>	<b>70</b>	<b>10,817</b>
Prison only <sup>5</sup>	79	60	70	22,455	85	60	70	10,227
Prison plus confinement conditions <sup>6</sup>	20	10	15	402	21	10	21	234
Probation plus confinement conditions <sup>7</sup>	6	6	12	469	6	6	18	153
Probation only <sup>8</sup>	0	0	—	507	0	0	—	203
<b>Immigration Unlawful Entry §2L1.2<sup>4</sup></b>	<b>28</b>	<b>24</b>	<b>27</b>	<b>9,167</b>	<b>28</b>	<b>24</b>	<b>30</b>	<b>4,710</b>
Prison only <sup>5</sup>	28	24	27	9,132	28	24	30	4,663
Prison plus confinement conditions <sup>6</sup>	22	10	10	11	10	10	15	11
Probation plus confinement conditions <sup>7</sup>	—	—	—	2	—	—	—	1
Probation only <sup>8</sup>	0	0	—	22	0	0	—	35
<b>Firearms §2K2.1<sup>4</sup></b>	<b>56</b>	<b>37</b>	<b>37</b>	<b>5,425</b>	<b>58</b>	<b>37</b>	<b>37</b>	<b>3,049</b>
Prison only <sup>5</sup>	59	41	41	4,779	61	41	46	2,721
Prison plus confinement conditions <sup>6</sup>	21	10	12	174	30	12	12	99
Probation plus confinement conditions <sup>7</sup>	6	6	12	224	6	6	11	116
Probation only <sup>8</sup>	0	0	—	248	0	0	—	113
<b>Theft/Fraud §2B1.1 or §2F1.1<sup>4</sup></b>	<b>16</b>	<b>12</b>	<b>12</b>	<b>9,606</b>	<b>20</b>	<b>12</b>	<b>15</b>	<b>3,666</b>
Prison only <sup>5</sup>	21	16	18	4,803	25	18	18	1,971
Prison plus confinement conditions <sup>6</sup>	9	10	10	840	10	10	10	340
Probation plus confinement conditions <sup>7</sup>	6	6	6	1,463	6	6	6	463
Probation only <sup>8</sup>	0	0	—	2,500	0	0	—	892

<sup>1</sup>Sentence data report the sum of imprisonment and any type of confinement as defined in USSG §5C1.1.

<sup>2</sup>For the guideline range of the sentencing table applied to the case, the lower value of the sentencing range.

<sup>3</sup>All statistics in the table report data for cases with one single guideline computation for the specified fiscal year. The “All Cases” row reports all cases regardless of the one guideline applied. Cases receiving only monetary sentences are excluded.

<sup>4</sup>Each guideline-specific section reports only cases with one single guideline application using the indicated guideline.

<sup>5</sup>Prison only sentence categories report straight prison time.

<sup>6</sup>Prison plus confinement sentence categories report the sum of prison time and alternative confinement time as defined in USSG §5C1.1.

<sup>7</sup>Probation plus confinement categories report statistics for cases receiving, as a condition of probation, alternative confinement time as defined in USSG §5C1.1.

<sup>8</sup>Probation only categories report cases receiving straight probation time. By definition, the confinement time is zero months for these cases.

SOURCE: U.S. Sentencing Commission, 2003 Fiscal Year Datafile, USSCFY03; Special Post-Booker Coding Project BOOKER05 (data extraction on August 3, 2005; table prepared August 17, 2005).